

REMARKS

Claims 1-4, 7-9, 11, 22 and 23-26 were pending in the present application. By virtue of this response, claims 1-4, 9, 22 and 23 have been cancelled, Claims 7 and 8 have been amended, and new claims 27-40 have been added. Accordingly, claims 7, 8, 11 and 24-40 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Rejections under 35 USC §102(b)

Claims 7, 8, and 11 are rejected under 35 USC §102(b) as allegedly being anticipated by Boughten et al. (US Patent No. 5,014,407) ("Boughten").

Independent Claim 7 requires that the tissue engaging rod is configured to extend independently of the first jaw member. Boughten shows the alleged tissue engaging rod (16) mechanically linked by the linkages (26 and 28) and connector block (30) to the handles (20 and 22) which are integral with the alleged first and second jaws (12 and 14). Therefore, the alleged tissue engaging rod of Boughten extends dependent on the first jaw member.

Claims 8 and 11 are dependent on independent Claim 7 and therefore allowable for at least the same reasons as presented above. Applicant respectfully submits that the Claims are therefore not anticipated by Boughten.

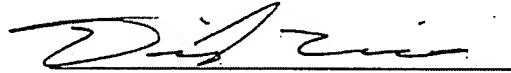
Applicant notes that the final Office Action mailed January 10, 2008 failed to discuss or otherwise recognize Claims 24-26. Applicant respectfully asserts that said Claims were and are still in condition for allowance. Furthermore, Applicant submits that all new Claims are in condition for allowance and that no new matter has been added.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to **Deposit Account No. 50-3973** referencing Attorney Docket No. **FGRTNA00602**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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